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**SFA****BILL ANALYSIS**

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Senate Bill 497 (Substitute S-2 as reported)  
Senate Bill 498 (Substitute S-1 as reported)  
Sponsor: Senator William Van Regenmorter  
Committee: Judiciary

## **CONTENT**

Senate Bills 497 (S-2) and 498 (S-1) would amend the Michigan Penal Code and the Code of Criminal Procedure, respectively, to revise the prohibition against possessing or using a firearm while under the influence of drugs or alcohol, and to add felony penalties to the sentencing guidelines. Senate Bill 497 (S-2) also would authorize a peace officer to require an individual to submit to a chemical analysis of his or her breath, blood, or urine, with collection and testing to be done in the same manner as required for driving violations. Senate Bill 498 (S-1) is tie-barred to Senate Bill 497.

Currently, the Penal Code prohibits a person who is under the influence of intoxicating liquor or any exhilarating or stupefying drug from carrying, having in his or her possession or control, or using or discharging a firearm. The violation is a misdemeanor. Senate Bill 497 (S-2) specifies instead that an individual could not carry, have in his or her possession or under his or her control, use in any manner, or discharge a firearm if the individual were under the influence of alcohol, a controlled substance, or both; the individual had an alcohol content of more than .07 gram per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine; or the individual's ability to use a firearm were visibly impaired, due to the consumption of alcohol, a controlled substance, or both.

A violation would be a misdemeanor punishable by up to 93 days' imprisonment and/or a maximum fine of \$500. A violation that caused a serious impairment of a body function by the discharge or use of a firearm would be a felony punishable by up to five years' imprisonment and/or a fine of not less than \$1,000 or more than \$5,000. A violation that caused the death of another person by the discharge or use of a firearm would be a felony punishable by up to 15 years' imprisonment and/or a fine of not less than \$2,500 or more than \$10,000.

A peace officer who had probable cause to believe an individual violated the bill could require the individual to submit to a chemical analysis of his or her breath, blood, or urine. A person who had hemophilia, diabetes, or a condition that required the use of an anticoagulant would not be required to submit to a chemical analysis of his or her blood.

Senate Bill 498 (S-1) would add the felony penalties proposed by Senate Bill 497 (S-2) to the sentencing guidelines. Using a firearm while under the influence or while impaired, causing a serious impairment of a body function, would be a Class E felony against a person, with a statutory maximum sentence of five years' imprisonment. Using a firearm while under the influence or while impaired, causing a death, would be a Class C felony against a person, with a statutory maximum sentence of 15 years' imprisonment.

MCL 750.222 & 750.237 (S.B. 497)  
777.16m (S.B. 498)

Legislative Analyst: P. Affholter

## **FISCAL IMPACT**

The bills would have an indeterminate fiscal impact on State and local government.

Under the conditions described in the bills, causing a serious impairment of a body function would be a Class E felony with a minimum sentencing range from 0-3 months to 24-38 months, and causing death would be a Class C felony with a minimum sentencing range from 0-11 months to 62-114 months. Since carrying, using, or discharging a firearm under the influence of liquor or drugs is a misdemeanor under current law, there are no statewide data to indicate how many offenders a year are convicted of the crime.

Assuming that 10 offenders a year would be convicted of each of the felonies and that they would receive the longest minimum sentence, given that the annual cost of incarceration is \$22,000, the cost of incarceration for these crimes would be \$2,790,000. If offenders received the shortest sentences, costs of incarceration would be incurred by local governments or by the State for felony probation at \$4.23 per day.

Date Completed: 5-29-01

Fiscal Analyst: K. Firestone

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.